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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,554	04/02/2001	Junsaku Nakajima	70551-55784	9695
21874	7590	03/19/2004	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			HINDI, NABIL Z	
			ART UNIT	PAPER NUMBER
			2655	
DATE MAILED: 03/19/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/824,554	NAKAJIMA ET AL.
Examiner	Art Unit	
NABIL Z HINDI	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 March 2004.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) 13-35 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

In response to applicant's letter dated March 01, 2004. the following action is taken:

Applicant's election with traverse of claims 1-12 is acknowledged by the examiner. The examiner agrees with applicant's remarks that all other claims will be considered upon the allowance of the generic claim. Applicant's specification identifies at least three different embodiments and agree that figs 2 and 3 are actually the same embodiment.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1067523.

Claim 1 merely read on the inherent feature of an optical disk wherein data is representative of a first areas having a first depth (pits) and a second area having information (non-pits or mirror). The reference shows an optical disk having a first region wherein data having a first depth is recorded 132, and a second region having data information with a second depth is recorded 131.

With respect to the limitation of claim 2. the reference shows a first information recorded by a depth 132 and a second information recorded by a depth 131.

With respect to the limitation of claim 3. the reference is drawn to a three value optical data using at least two pit depths.

With respect to the limitation of claim 4 see fig 15 and it's description.

With respect to the limitation of claim 5 see column 38and claim 1 of the reference.

With respect to the limitation of claim 6 see element 132.

With respect to the limitations of claims 7-12. the reference shows the use of additional information 132 that is unique to the disk recorded thereon. The additional information having key data, inhibiting data... etc as cited in column 26 last paragraph and column 33 lines 42-53.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5946288, 5896366 and 6363041.

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.



NABIL HINDI  
PRIMARY EXAMINER  
GPO 2655